S.B. CIVIL WRIT PETITION NO.921/1995.
(SMT. KAMLA DEVI VS. STATE & ANOTHER)

DATE OF ORDER : 26.02.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Arvind Samdriya for the petitioner.
Mr. B.K. Bhatnagar for the respondents.

By this petition for writ, legality of the order dated 26.12.1994 passed by Shri Bhanwarlal Duggar Ayurved Vishva Bharti, Sardar Shahar is questioned. By the order aforesaid, it was notified that the petitioner shall retire from service w.e.f. 31.12.1994 on achieving the age of 58 years i.e. the age prescribed for superannuation.

The factual matrix necessary to be noticed for adjudication of the present petition for writ is that the petitioner entered in the services of Shri Bhanwarlal Duggar Ayurved Vishva Bharti, Sardar Shahar under an order dated 30.06.1969 as “Paricharika” - a post in Class -IV Cadre. The date of birth of the petitioner is 01.06.1937. According to the petitioner, she was to be retired on acquiring the age of 60 years, but the respondents under the order impugned dated 26.12.1994 ordered for her retirement from service w.e.f. 31.12.1994 treating the age of 58 years as the age prescribed for superannuation.

It is contended by counsel for the petitioner that under Rajasthan Non-government Educational Institutions (Recognition, Grant-in-aid and Service Conditions etc.) Rules, 1993 (hereinafter for short "the Rules of 1993), the age of retirement as prescribed is of 60 years, as such the respondents erroneously ordered for retirement of the petitioner w.e.f. 31.12.1994.

Per contra, in reply to the writ petition, it is stated by the respondents that in accordance with Rule 8(2)(a) of the Rajasthan Ayurved Anudan Sahayata Rules, 1972 (hereinafter for short "the Rules of 1972) as amended under the notification dated 09.11.1989 (Annexure R/3), the age of retirement for doctors, compounders/nurse and members of the other cadres is 58 years. On asking, it is asserted that the respondent institution is getting aid under the Rules of 1972 and not by the Rajasthan Non-Government Educational Institutions Act, 1989 (hereinafter for short "the Act of 1989") or the rules framed thereunder. A set of the Rules of 1972 is also placed on record.

The Rules of 1972 pertains to grant of aid to the Non-government Ayurved, Unani, Naturopathy, Homeopathy and other indigenous alternative medicinal Educational institutions. The dispensary where the petitioner was working is affiliated

with teaching of Ayurved at the respondent institution. The respondent is getting aid under the Rules of 1972 and not under the Act of 1989 or the rules framed thereunder. The service conditions of the petitioner were required to be regulated in accordance with the Rules of 1972 and not by the Rules of 1993. It is not in dispute that under the Rules of 1972, the age of retirement prescribed for doctors, compounders/ nurse and members of other cadres that includes Class IV Cadres, is 58 years and,therefore, I am of the opinion that no illegality is committed by the respondents while retiring the petitioner on acquiring the age of 58 years.

In result, the writ petition is having no merit, the same, therefore, is dismissed.

(GOVIND MATHUR)J.

Anil/